

**IN THE MATTER OF:** Sections 104, 104B, 104D and 108 of the Resource Management Act 1991

**AND**

**IN THE MATTER OF:** A resource consent application made by Barristerscomm.Com on behalf of Alsco NZ Ltd, to establish a new loading dock and demolish part of an existing building at 14 Tory Street, Petone.

(Legally described as Lots 29, 31, 32, 33, 34, 35, 36, 37, 38 DP 393; WNWN 29A/287, 60/170, WN358/268, WN98/208, WN357/59, WN55/219)

Council Reference RM 140165

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## 1. DECISION

1.1 In accordance with a delegation by Hutt City Council (HCC), pursuant to the provisions of

Section 34 of the Resource Management Act 1991, as there were not less than three members present, the Hearings Committee had power to act in determination of the following proceedings. The following resolution represents Council's decision on the resource consent application.

- 1.2 That the Hearings Committee, acting under delegated authority from Council and pursuant to sections 10, 104B, 104D, and 108 of the Resource Management Act 1991, GRANTS CONSENT subject to conditions, to the resource consent application made by Barristerscomm.Com on behalf of AlSCO NZ Ltd, to establish a new loading dock and demolish part of an existing building at 14 Tory Street, Petone.
- 1.3 The reasons for the decision on the application are discussed more fully below.

## 2. THE APPLICATION

- 2.1 Full details of the proposal are contained in the Section 42A Council Planner's Report and in the application. We were informed that amendments to the proposed plans were made after lodgement (being submitted to Council on 4 March 2015), with the latest amendments reflected in DMC Plans RC01 Rev 2, RC02 Rev 5, RC03 Rev 3 and RC04 Rev 5. It is these plans on which we assessed the application. For clarity we explain the proposal below.
- 2.2 AlSCO New Zealand Ltd (AlSCO) is a commercial laundry processing and distribution centre based in Petone. The applicant is proposing to:
- Remove the boiler room and workshop which will facilitate relocation of the existing vehicle crossing to Cuba Street;
  - Construct a new loading dock adjacent to the Tory Street frontage which will result in a small shift of the existing vehicle crossing to Tory Street;
  - Remove the mezzanine floor, some internal walls and exterior stairs as part of seismic strengthening of the south-east corner of the main building; and
  - Undertake landscaping along the Cuba and Tory Street frontages, including moving of street trees on the Cuba Street frontage.
- 2.3 We were informed that removal of the boiler room and workshop will involve demolishing approximately 130m<sup>2</sup> of the main building on the site. Following demolition the exposed walls will be fitted with roller doors. The existing ramp and roller door will also be removed from the Cuba Street frontage. The vehicle crossing currently next to the boiler room will be moved approximately 5m south on the Cuba Street frontage. Further south on the site, the exterior stairs will be demolished as they will no longer be required after the mezzanine floor is removed.
- 2.4 A new loading dock is proposed on the Tory Street frontage of the main building and will be attached to the north-west corner of the building. The new dock is proposed to be approximately 5.0m high with a flat roof pitch and will extend 4.4m along the Tory Street frontage, being set back from this street frontage by 1.5m. The dock will face internally to the site, clad in solid plaster and painted white to match the building it will be attached to.
- 2.5 To facilitate this loading dock, the existing vehicle crossing will be moved slightly north (by 0.5m). This vehicle crossing will be widened to accommodate the largest vehicles. A car park will be relocated within the site for the gates and service vehicles to operate safely.

- 2.6 Landscaping will be undertaken on the Tory Street frontage. Existing landscaping along the Cuba Street frontage will be improved with new planting. The applicant proposes to relocate existing street trees and plant a new street tree on Cuba Street but is still seeking advice from Council's Parks and Gardens Department. As these works are not within the subject property, they are not within the applicant's control. However Council's Parks and Gardens Department have indicated it is feasible to relocate the trees.
- 2.7 The applicant advised there will be no change in the scale of the extent of the operation, the number of staff or hours of operation as a result of the proposed changes to the buildings on site.
- 2.8 We were further informed a small volume of earthworks is required to construct the foundations for the new loading dock, relocate the crossings and access, and to make the good the ground under the demolished boiler room. As these earthworks will be less than 50m<sup>3</sup> and not involve a cut or fill of more than 1.2m they will comply with District Plan limits.

### **3. THE SITE AND LOCALITY**

- 3.1 Due to the nature of the activity undertaken on the site, and the disagreement between the parties as to the extent of the Existing Use Rights (which we discuss further below), we repeat the reporting officer's description of the site, locality and history.
- 3.2 Also is located at 12, 14-18 Tory Street, and 11 Cuba Street, Petone (no works are proposed at 11 Cuba Street). The site has frontage to both Tory and Cuba Streets. The site comprises of the main warehouse (approximately 2095m<sup>2</sup>) that is understood to have been constructed around 1905 (however Council records only date back to 1930 where additions were undertaken on the warehouse) and the administration building.
- 3.3 The commercial laundry processing and distribution centre serves the industrial, commercial, food service, accommodation and healthcare sectors. An existing use rights certificate was issued for Also's existing operations on 12 June 2013 (Council reference RM130137).
- 3.4 The site is legally described as:
- Lot 29 DP 393 and Lot 31 DP 393 held in WN71/174
  - Lot 32 DP 393 held in WN29A/297
  - Lot 33 DP 393 held in WN78/197
  - Lot 34 DP 393 held in WN60/170
  - Lot 35 DP 393 held in WN358/268
  - Lot 36 DP 393 held in WN98/208
  - Lot 37 DP 393 held in WN357/59
  - Lot 38 DP 393 held in WN55/219

- 3.5 We were informed by the reporting officer that they have reviewed the above certificates of title and they do not contain restrictions that could affect the proposal.
- 3.6 The property is within the Medium Density General Residential Activity Area of the City's District Plan. No further notations within the Plan apply to the site.
- 3.7 The local environment of Tory, Cuba and Adelaide Streets is residential in character. Dwellings are typically older (approximately 50 or more years) and a mixture of single and double storey. This is consistent with the wider residential character of Petone. In the broader vicinity, activities also include commercial uses along The Esplanade and Jackson Street. The Esplanade is a major transport route between Seaview/Gracefield and the wider region.

#### Site History

- 3.8 The site history of the activity since 1988 is well described by the information contained within the existing use rights certificate granted in 2013, and included in the lodged application documents.
- 3.9 The site history can be summarised as follows:
- Council's building records for the site begun in the 1930s. These were for additions to an existing factory and it appears the factory has been on the site since early 1900's;
  - Between 1930 and 1987, permits were issued for various additions and alterations;
  - From 1988 onwards planning approval was given for a new boiler house and maintenance workshop and loading docks (1991) including an extension to an existing loading dock (1994);
  - In 2001 a notified resource consent was granted for the erection of the administration building at 12 Tory Street; and
  - In 2004, a notified resource consent was granted to use 11 Cuba Street for staff parking. This consent was not implemented and has now lapsed.

#### 4. SUBMISSIONS

- 4.1 The application was limited notified on 16 October 2014 with notice of the application being served on the owners and occupiers of 21 and 27 Tory Street, Petone, as those parties were deemed by the Council to be adversely affected and they had not given prior written approval.
- 4.2 At the close of submission period on Friday 14 November 2014, three submissions had been received from:
- Rachel Kelly as the owner and occupant of 21 Tory Street.
  - Marja Verkerk c/- Roger Thackery as the owner of 27 Tory Street;
  - Eleonore van der Reyden as the occupant of 27 Tory Street;

Pre-hearing Meeting

- 4.3 A pre-hearing meeting was held on 17 February 2015. We were supplied with the minutes of this pre-hearing meeting.
- 4.4 We record that we read all the submissions and the above minutes in full prior to the Hearing and had regard to them all as part of our evaluation of the application.

## 5. PROCEDURAL MATTERS

### Additional Information

- 5.1 During the course of the Hearing it became apparent that an additional assessment by Bill Barclay of Barclay Traffic Planning was not circulated in the officer's section 42a report. We understand this was an administrative error and this report was circulated at the Hearing. The reporting officer advised us this additional report did not substantially change council's view of the proposal. The report was in response to council officers and Mr Barclay being updated on the current vehicle access arrangement as opposed to what was advised in the application. The applicant had no objection to this report being tabled and we accept it.
- 5.2 The Planning Officer tabled information requested by a submitter after the s42A report was circulated, being a turning circle diagram referred to by the applicant in a response to further information, and a traffic assessment submitted to council in 2012. We were informed this turning circle was part of a Transportation Assessment Report commissioned by AlSCO in November 2012 and formed part of AlSCO's pre-application discussions with council officers prior to their (AlSCO's) existing use rights application. We were further informed this report did not form part of the council's assessment in that existing use rights application. This assessment report has not been updated to reflect the current resource consent application and the applicant did not indicate they wished to update it. We therefore accept the document as tabled in response to a request from a submitter, however we gave it no weight in our deliberations.

### Withdrawn Written Approvals

- 5.3 Since the circulation of the s42A report, we were informed several persons who had given written approval to the application had withdrawn their approval. The reporting officer detailed three withdrawn written approvals:
- E Townsley as the occupant of 18 Adelaide Street;
  - R & K McLean as the owners and occupiers of 23 Tory Street;
  - J Mistry as the owner and occupier of 21 Cuba Street.
- 5.4 We took advice from the reporting officer that the effects on 18 Adelaide Street were assessed in the notification decision as the owner had not given their approval at that point. The effects on the owner were considered to be less than minor and therefore not deemed to be an affected party by the Council. Therefore, while they have now withdrawn their written approval, the Council did not consider them to be adversely affected in the notification decision and

- there has been no change to the application that would require a reassessment of that prior determination.
- 5.5 R and K McLean had given their approval when the application was lodged and then withdrew this approval prior to the Council making its notification decision. Accordingly the effects on 23 Tory Street were assessed by the reporting officer and the effects were considered to be at least minor. They were deemed to be affected persons. After notification they gave their approval to the development and the effects were disregarded in the reporting officer's report. Since this approval was withdrawn after circulating the section 42a report, the reporting officer advised the Hearing they had not assessed the effects on 23 Tory Street. They did so in their tabled addendum report at the Hearing as part of their response to the Hearings Panel. We have taken this assessment into account in our deliberations.
- 5.6 The written approval of J Mistry was provided with the application and the effects on 21 Cuba Street were disregarded in making a notification decision. Since this approval was withdrawn after circulating the section 42a report, the reporting officer advised the Hearing they had not assessed the effects on 21 Cuba Street. They did so in their tabled addendum report at the Hearing as part of their response to the Hearings Panel. We have taken this assessment into account in our deliberations.
- 5.7 In accordance with s104(4) of the Resource Management Act 1991 (the RMA/the Act) we consider these withdrawals of approval to have occurred within the prescribed timeframe and accept them. In accordance with ss104(3)(a)(ii) and s104(4), we therefore are required to have regard to any effects upon those persons. However, as noted above, the owner and occupier of 18 Adelaide Road was not deemed to be an adversely affected party by the Council in their notification decision, and therefore, we do not have regard to any effects upon that person. We have assessed the effects on 21 Cuba Street and 23 Tory Street in our deliberations.
- 5.8 In addition to these three withdrawn approvals, we were advised by a submitter at the Hearing that K Whelan (29 Tory Street) and J Studd (19 Tory Street) wanted to also withdraw their approvals. As the notification of these approval withdrawals was not received until after the commencement of the Hearing, in accordance with s104(4) of the RMA, we cannot accept their withdrawal and their original approvals must stand.

## **6. THE HEARING**

- 6.1 The Hearing was held at Pelorus Trust Sports House, 93 Hutt Park Road, Seaview, Lower Hutt on Friday 13 March 2015. We closed the Hearing on that same day.

6.2 The following persons presented legal submissions and evidence to the Hearing:

For the Applicant: Mr Peter Churchman QC, Legal Counsel  
Mr David Woodhead, Branch Manager of AlSCO NZ  
Ms Louise Feathers, Planning Consultant, Louise Feathers  
Planning Ltd

Submitters in Opposition:

Ms Eleonore van der Reyden  
Ms Rachel Kelly  
Mr Roger Thackery

Reporting Officers: Ms Baylee Pakau, Senior Resource Consents Planner  
Ms Sarah Clarke, Team Leader, Resource Consents  
Mr Bill Barclay, Consultant Traffic Engineer

6.3 A section 42A officer's report was prepared by Ms Baylee Pakau. We were assisted in an administrative capacity by Mrs Heather Clegg, Hearings Administrator for HCC.

6.4 All of the material presented by the above parties is held on file at HCC. We took our own notes of the oral presentations and the answers to our questions. For the sake of brevity we have not produced that material verbatim in this decision. We do however refer to relevant matters raised in the material in subsequent parts of this decision.

6.5 We undertook a site visit on the afternoon of Monday 9 March 2015 and record that we were not accompanied on that site visit by the applicant, submitters or officers.

## 7. CONSENT SOUGHT

7.1 The appropriate planning instrument for assessing the proposed activity is the City of Lower Hutt District Plan. As the site is within the Medium Density General Residential Activity Area, the relevant rules are contained within chapter 4A.

7.2 There was disagreement between the applicant's Planner and the reporting officer as to the status of the application. The applicant believed that as resource consent was not being sought to conduct a business on site (rather the application was for the demolition and construction of buildings), and as the business on site has existing use rights, this application is for a Discretionary Activity, as the

construction works involve infringements of three District Plan rules as set out below:

- Rule 4A2.1.1(b) – Front yard setback (to Tory Street) which requires a 3m setback;
- Rule 4A2.1.1(c) - Recession Plane (affecting the Tory Street frontage) requires compliance with a 2.5m and 450 angle;
- Rule 4A2.1.1(f) – Maximum length of buildings (along Tory Street) of 20m.

7.3 The applicant also sought consent for the demolition of a building, which is not expressly provided for by the Plan. We were informed by the applicant's Planner that while the District Plan is silent with regards the activity status of construction and demolition within this Activity Area, it was her opinion that such building and demolition is a permitted activity, subject to compliance with the relevant standards, and providing the land use was either permitted or had planning approval for its existence. We concur with this view. We find the demolition proposed to be a permitted activity.

7.4 The reporting officer agreed that Alco's activities are warehouse operations that are considered to have existing use rights (and we will discuss these in more detail later in this decision) but that this use is not an identified permitted activity in this zone. Therefore they considered the proposal is a Non-Complying Activity under rule 4A 2.5(a) which states:

*"Rule 4A2.5(a) all other activities not listed as a Permitted, Controlled, Restricted Discretionary or Discretionary activity."*

7.5 We concur with the reporting officer's reasoning, in that this is a non-complying commercial activity operating in a residential activity area albeit under existing use rights. We are of the opinion that it is not good planning practice to separate the purpose of use from the physical structures themselves. That is, the works proposed are for the use by the activity occurring on the site. We therefore find that this resource consent application is for a non-complying activity under rule 4A 2.5(a).

#### Assessment of National Environmental Standards

7.6 We were advised the proposal will require some disturbance of land which triggers consideration of the National Environmental Standard for Assessing and Managing Contamination in Soil to Protect Human Health (NES). There are no hazardous substances stored on site and the site is not listed on Greater Wellington Regional Council's selected land use database as being contaminated.

7.7 The applicant confirmed a small dry-cleaning machine was on the site for approximately three years around 1975 and was then removed. This was ancillary to the main use of the site as a commercial laundry operation. The dry-cleaning machine was located in the middle of the existing main building. The applicant advised there has not been any bulk storage of solvents on the site.

7.7 We do not consider that resource consent is required under the NES. The area of excavation to demolish the existing boiler room and warehouse and to construct the docking bay is well separated from the known location of the dry-cleaning machine. We find it is considered unlikely an activity on the Hazardous Activities and Industries List activity took place on a piece of land that is subject to this current proposal. We find no other national environmental standards are relevant to this application.

## 8. STATUTORY PROVISIONS

- 8.1 This application falls to be considered as a non-complying activity under Part 2 and sections 104, 104D and 108 of the RMA.
- 8.2 As a non-complying activity, the application must go through a two-step process. First it must be assessed against the gateway tests of section 104D of the RMA; only if it satisfies one or other of those two tests can it then proceed to be fully assessed on its merits against the other provisions of section 104 of the RMA.

Section 104D states:

*(1) Despite any decision made for the purpose of section 95A(2)(a) in relation to minor effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either –*

*(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(b) applies) will be minor; or*

*(b) the application is for an activity that will not be contrary to the objectives and policies of –*

*(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*

*(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*

*(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

- 8.3 The first test, section 104D(1)(a), requires us to consider *only* the adverse effects of the activity on the environment. Whatever benefits are alleged are not a relevant consideration – they belong to the subsequent overall assessment. Furthermore, in considering whether the adverse effects on the environment are *minor*, the effects to be considered are as proposed to be remedied or mitigated – and also take into account the baseline of effects permitted and the nature of the existing environment.
- 8.4 The main adverse effects raised by the submitters are amenity effects and appearance of the proposed loading dock; traffic effects (vehicle movements and size of vehicles); demolition and construction effects; and noise effects. Rather than repeat our determination in regard to the adverse effects, we refer to paragraphs 9.1 – 9.27 of this decision. For the record we reiterate that we have done so in regard to s104D without taking into account the beneficial effects (albeit noting within those paragraphs that there will be some beneficial effects).

- 8.5 Accordingly we find that the application passes the first gateway test of section 104D(1)(a) because, based on the evidence, the adverse amenity and appearance, traffic, demolition and construction, and noise effects will be minor.
- 8.6 Turning to the second test, s104D(1)(b), we are required to consider whether the activity is contrary to the respective objectives and policies of the operative District Plan. We note that there is no relevant Proposed Plan. Our determination in this regard is set out in paragraphs 10.1-10.22 of this decision. As a general conclusion, we find that the proposed application would not be contrary to the relevant objectives and policies of the operative District Plan.
- 8.7 Accordingly we find that the application satisfies the second gateway test of s104D. Having met both gateway tests the application can therefore proceed to full assessment.
- 8.8 An assessment of effects on the environment, including the issues and matters raised by submitters, is detailed within the assessment below. The District Plan's objectives, policies and rules are of particular relevance in terms of s104(1)(b), and together with the Part 2 criteria listed in section 11 of this report, form the basis of any determination as to whether an adverse effect may be regarded as minor (or otherwise).
- 8.9 The following definitions contained in the Act apply in this case:

*"Environment"* is defined as

- (a) *Ecosystems and their constituent parts, including people and communities; and*
- (b) *All natural and physical resources; and*
- (c) *Amenity values; and*
- (d) *The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters.*

*"Amenity values"* are defined as

*"those natural and physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence and cultural and recreational attributes."*

#### Permitted Baseline

- 8.10 Section 104(2) states
- "...when forming an opinion for the purpose of subsection 1(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect."*
- 8.11 The permitted baseline comprises of those activities that could be undertaken without resource consent. For this site we were informed that would be dwelling houses, home occupations, child care and Kohanga Reo facilities for up to five children, residential facilities accommodating 8-10 persons and accessory buildings to these activities. The activities would need to comply with the permitted activity conditions and relevant general rules.

- 8.12 Alscó's operations are not permitted as they are not captured by the above permitted activities. While it is possible the operations could cease and the existing buildings removed and replaced with permitted dwellings on each of the titles (for example), we do not consider this to provide any guidance in assessing the effects of additions and alterations to the commercial laundry operation. We therefore disregard the permitted baseline in our consideration of this application.

#### Existing Environment

- 8.13 While the permitted baseline establishes what could be undertaken without resource consent, the existing environment takes into account what is already lawfully established even if not a permitted activity in that zone. An existing use rights certificate was issued by the Council in 2013 as the use was considered to meet the tests under section 10 of the Act. We asked all parties through the hearing to provide us advice on the impact of the proposal on existing use rights.
- 8.14 The existing use certificate and whether it still applies has been queried by the submitters. In particular they raised concerns that the sizes of the largest vehicles (being 18.2m reticulated transporters) were not included in the existing use rights certificate and therefore do not form part of what is lawfully established. Concerns were also raised that the changes in activities on the site have substantially altered since the certificate was issued and that the applicant is operating outside of the hours established in the certificate.
- 8.15 The key assessment criteria for establishing existing use rights is whether the effects of the use are the same or similar in character, intensity, and scale to those which are lawfully established.
- 8.16 The reporting officer informed us the concerns of the submitters were put to the applicant in a further information request following the close of submissions. In particular Council sought information on the size of the vehicles and when they began to operate from the site.
- 8.17 The applicant provided the information to support their assertion of existing use. In summary, the overall number of vehicles to the site has reduced since June 2013 (when the existing use rights certificate was issued). Alscó provided letters from suppliers to support their existing use rights.
- 8.18 We also acknowledge the letter from Linfox tabled by Mr Thackery in his submission, which Mr Thackery purported to be evidence that Linfox used large articulated trucks to deliver items to Alscó. However when this letter is re-read, it is apparent Linfox are referring to another commercial operation - Asaleo - and not Alscó. As the letter author was not called as a witness by the submitter, we were unable to question them as to its contents. Accordingly we disregard this tabled letter. Several submitters contested that the largest trucks have only been operating from the site for the last year. We received no substantive evidence to qualify this claim, and rely on the written tracking evidence produced by Mr Woodhead which detailed the truck movements on site in association with Alscó's application for an existing use rights certificate, and actual traffic movements in September 2013 and in November 2014.

- 8.19 In answering questions put by the commissioners, Mr Woodhead confirmed that in terms of an assessment of intensity, overall there has not been an increase in the blend of vehicles visiting the site between June 2013 and November 2014. Mr Woodhead also confirmed there has been a reduction in overall vehicle movements as there are fewer cars and vans due to reduced staff numbers.
- 8.20 In weighing up the evidence before us, we consider the applicant provided sufficient evidence for us to ascertain that the size of the vehicles in association with AlSCO's operations have existing use rights under section 10 of the Act. In any event, we find that the existing use rights certificate does not specify what type of delivery vehicle is permitted on site. We find the effects of the current use to be similar in character, intensity and scale to the lawfully established activities.
- 8.21 Concerns were raised by the submitters in respect of the times that AlSCO's operations have been outside the hours for which the existing use rights certificate was issued being Monday to Friday 6.30am to 5.30pm, five days a week with no weekend use.
- 8.22 The information provided by the applicant showed vehicles occasionally arriving from the Palmerston North distribution centre after 5.30pm (based on when the vehicle engine stopped). Based on this information that was limited in time from 2-29 September 2013 the latest the vehicles arrived was 5.49pm. The applicant has said this was due to delays caused by traffic congestion and agreed the need to revisit timing of the operation to meet the 5.30pm finish time. Regardless, any non-compliance is not relevant to our assessment of this current application, which does not propose to change the hours of operation, and is, rather, an enforcement matter that should be addressed with the Council and AlSCO.
- 8.23 We were informed by Mr Woodhead that AlSCO no longer undertake laundry washing on site. In his tabled evidence, he stated:
- "We have recently ceased washing laundry on-site at Petone, and although we still perform a number of other laundry functions on the site, this had reduced the staff numbers a little and therefore street parking is less congested, freeing spots for residents."*
- 8.24 In answering questions from the commissioners, Mr Woodhead stated the operations onsite include segregation of soiled items, loading of trollies, counting of soiled items, pack out and invoicing cleaned items.
- 8.25 We are satisfied AlSCO is operating legally under their existing use rights certificate. We concur with the reporting officer and the applicant's planner that although the building work will change the way vehicles arrive and leave the property, this is considered to be within the scope of the already lawful activities which will not increase in intensity. We consider the change in vehicle access arrangements will result in a more efficient use of the roading network.
- 8.26 We find the relevant effects for assessing this proposal are those over and above what is lawfully established and that the existing environment provides a useful frame of reference for assessment.

## 9. ISSUES IN CONTENTION

- 9.1 Based on the material provided in the application, the submissions, the s42A report and evidence presented at the hearing, we consider that the principal issues in contention are:
- Amenity Effects and appearance of proposed loading dock
  - Traffic Effects - vehicle movements and size
  - Demolition and construction effects
  - Noise effects

### Amenity Affects

9.2 When considering the effect on amenity values we assessed the existing environment and analysed how the proposal may affect this, including effects on 23 Tory Street and 21 Cuba Street. Ms Feathers provided a useful description of the existing environment and potential effects in her tabled paragraphs 4.6.4 – 4.6.11. We acknowledge that although the zoning of the area is Residential, the existing environment includes above ground electrical apparatus (including power poles and a substation bunker) a 32.5m long white plastered commercial building and carparking. Raised roller doors often lend views into the building. We also considered the advice provided by Ms Pakau in her s42a report and her response to the Panel.

9.3 The proposed additional structure (a 5.0m high and 4.43m long loading dock facility attached to the existing 32.5m long building along the Tory Street elevation) represents a 13.5% increase in the total existing length of the building. We acknowledge this may add to the prominence of the site when viewed from the submitters' properties, particularly from 21 Tory Street and on 23 Tory Street (who withdrew their written approvals). The reporting officer had taken advice from the Council's Urban Design Consultant, Mr Morten Gjerde. We repeat Mr Gjerde's two recommendations here:

- *“That while a monopitch roof is fine, ideally it should be either flat (and therefore imperceptible to the neighbours) or pitched to match the roof south of the gable form they are joining onto;*
- *That materials should match the solid plastered walls of the gable form building they are joining onto.”*

9.4 We note these two recommendations have been accepted by the applicant, and reflected in their revised plan documents. A flat roof is proposed for the loading dock and the structure is proposed to be painted in white to better match the building it is to be attached to. We have imposed a condition that the paint finish be non-reflective, so as to alleviate the concerns of the submitters of a “new large metal clad dockway”.

9.5 The removal of a disused 130m<sup>2</sup> boiler room and workshop, removal of the unnecessary substation bunker and additional landscaping including large trees, will, in our view, enhance the streetscape. The removal of the buildings will enable better on-site traffic flows, and will increase the separation distance between the Alsco building and residential activity in respect of the Cuba Street frontage of the site. It will also increase the amenity values of the surrounding area through the removal of a redundant building. The addition of landscaping

will help to break the perceived monotony of the street façade. It will also help to screen the working operation of AlSCO and the carparking areas, from outside of the site. Advice was received from Council's Reserve's Planner and we have imposed a condition according to that information.

- 9.6 Ms Kelly was concerned that she may lose distant views of the hills from the front of her dwelling resulting from the addition of the new loading dock on the Tory Street frontage. Whilst the District Plan does not specifically protect views, we find that the removal of the unused structures will enhance the immediate view of the site, and with the proposed landscaping, the overall appearance of the site will be enhanced, with views to the distant hills still being afforded.
- 9.7 Whilst acknowledging the overall length of the building will increase (by 4.4m), we find the visual impact of this increased length will be less than minor, mitigated by the use of the finished colour, substantially improved planting, and a lesser height than the main building. We find that balanced with the increased traffic safety and decreased noise of heavy vehicles manoeuvring on the road or on site, the amenity of the area will not be adversely affected.
- 9.8 Ms van der Reyden expressed concern over a lack of privacy onto her property (in particular her front room) as occupants of the large truck cabs can look directly into this room as they are reversing into the Tory Street entrance of the site. We find that with the advent of trucks entering the subject site in a frontways manner off Tory Street, the privacy concerns of Ms van der Reyden will be adequately addressed.
- 9.9 We considered the potential effects on 21 Cuba Street, given that written approval was withdrawn. The proposed loading dock will be approximately 40m from the nearest boundary with 21 Cuba Street. The proposal will result in a reduction of building bulk near the boundary with 21 Cuba Street as the boiler house will be demolished. We heard from Mr Thackery that there may be some amenity and privacy effects resulting from vehicles existing onto Cuba Street. As J Mistry was not a submitter and did not attend the hearing, we were unable to question him in respect of any potential effects. We considered the advice from the reporting officer and applicant's planner in respect of potential effects and our observations from our own site visit. Given the location of the garage on the property at 21 Cuba Street and the height of existing fencing along the boundary, we do not consider that there will be any adverse amenity or privacy effects on 21 Cuba Street.

#### Traffic Effects

- 9.10 The proposed loading dock and demolition of the boiler room and warehouse will change the vehicle access arrangements on site. Vehicles will enter from Tory Street in a frontways manner, load and unload on-site then exit the site towards Cuba Street. We were presented with evidence from both the applicant and submitters that currently vehicles are reversing into the Tory Street access of the site which can take several manoeuvres and can cause a traffic hazard on the local streets. We heard from Council's Consultant Traffic Engineer, Mr Barclay, that these manoeuvres do not comply with the District Plan. We also heard that

the Cuba Street access is currently not utilised and the vehicles enter and exit solely from Tory Street.

- 9.11 We heard from three submitters - Ms Kelly, Ms van der Reyden and Mr Thackery – and a witness called in support of Mr Thackery – Mr R McLean - who described the currently unsafe traffic practices which occur to enable trucks to enter the Alsco site. We heard anecdotal evidence of several “near misses”. All three submitters acknowledged that to provide for trucks to enter the site via Tory St in a frontways manner, would improve the current situation.
- 9.12 The submitters indicated that small truck movements operated to and from the site primarily in the morning and mid-afternoon. We can advise that during our site visit at 4.30pm, we observed small trucks entering and exiting the site.
- 9.13 Written submissions highlighted concern at light spill from trucks that currently reverse into the site. We find that with trucks being able to enter the site in a frontways manner, the incidence of light spill will significantly reduce if not disappear for residents of Tory Street.
- 9.14 In Mr Thackery’s original written submission, he expressed concern at the logistics of on-site manoeuvring due to the angling of the proposed dockway. We heard from Mr Barclay that the proposed on-site layout posed no on-site manoeuvring problems, and in fact improved vehicle flows on site.
- 9.15 Mr Barclay reviewed the application and advised that an 18m articulated design vehicle will be able to enter the site from Tory Street without a need for reverse manoeuvring. He noted the drawings provided by the applicant (drawing RC02 revision 4) showed a vehicle that scaled at 20m, more than the 18m design vehicle which in Mr Barclay’s opinion, should provide added assurance. This drawing was further revised (revision 5) and this latter version is the one assessed by this decision. Mr Barclay’s comments regarding the manoeuvring of large trucks are relevant to this revision 5 version of the plans.
- 9.16 It was Mr Barclay’s opinion that the proposed one way system for the site had beneficial traffic effects. He was not concerned with the proposed increased traffic movements onto Cuba Street as he informed the Hearing that Cuba Street is classified in the District Plan as a Minor District Distributor. He stated there are considerable volumes of traffic on this street, and whilst he would regard it as a sensitive environment, he explained there are traffic signals at the southern end of the street, which would provide enough gaps in traffic flow for manoeuvres (exiting the site) to take place. He expected there to be only one or two such large truck movements per day, and could not foresee this to have an adverse effect on the traffic flows. Mr Woodhead for the applicant also explained that vehicles currently leave the site onto Tory Street, turn right into Adelaide Road, and then right again into Cuba Street. Therefore the only difference afforded by this application would be that vehicles would now directly egress the site onto Cuba Street, rather than via Tory Street, Adelaide Road and then Cuba Street.
- 9.17 The submitters raised concerns with vehicles crossing the centreline as they enter the site. While some crossing of the centre line may be required for the reticulated transporters, the risk will be significantly less than that presented by the current

situation of reverse manoeuvring that takes place. We find that the proposal will bring traffic manoeuvring into compliance with the requirements of the District Plan. This is a positive effect of the proposal.

- 9.18 Some submitters were concerned that large trucks were permitted on the residential streets of this area. We heard from Mr Barclay that there is no Traffic Bylaw in place that precludes large vehicles from travelling these streets. He further clarified that all registered vehicles are permitted on the streets of the area.
- 9.19 We considered the potential effects on 23 Tory Street and 21 Cuba Street and the advice given by the reporting officer and the applicant's planner. We address the effects on 23 Tory Street in the above assessment. We note that the proposed loading dock will be approximately 40m from the nearest boundary with 21 Cuba Street. Whilst we acknowledge the proposal will change the access arrangements of vehicles as they will exit towards Cuba Street rather than Tory Street, we do not consider this to be outside of the existing use rights established. Overall, we consider that any effects on that property would be minor in nature and the relocation of the vehicle crossing will be a positive effect.
- 9.20 In summary, we find that the proposal will result in an improvement of the current vehicle access arrangements on and off site. We consider the proposal to be a more efficient use of the roading network.

#### Demolition and Construction Effects

- 9.21 The applicant has advised the demolition and construction works will be undertaken during normal work hours to reduce the disturbance to the surrounding residential area. Demolition and construction are generally temporary in nature and the scale of this proposal is not large.
- 9.22 Some submitters expressed a concern about asbestos on site and its safe removal. We find that such an issue is best dealt with at Building Consent stage, and that should asbestos be found during demolition, there are strict controls under the Building Act which will be invoked.
- 9.23 The District Plan allows for some additional noise during demolition and construction in accordance with NZS 6803P "Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work". We find any adverse construction and demolition effects can be mitigated by way of conditions and have conditioned accordingly. We further find that the demolition and construction effects proposed to be no more than minor.

#### Noise Effects

- 9.24 We heard that the scale of the operations is not proposed to increase and the dock itself will not create noise. We do not consider the proposal will result in additional noise off site. With vehicle access arrangements changing, we expect the noise effects of the vehicle movements will be reduced as there will be a reduction in manoeuvring on Tory Street.
- 9.25 We heard from Mr Thackery that Mr Mistry (of 21 Cuba Street) told him there were already adverse noise effects from the existing roller doors on site. We had

advice from the reporting officer and the applicant's planning that noise effects of the proposal would be less than minor. We had no direct evidence that there was an existing effect and that there would be a change in effect. Mr Mistry was not a submitter on the application and was not present at the hearing. Therefore we rely on and concur with the evidence of the reporting officer and applicant's planner.

9.26 Accordingly, we find that the noise effects resulting from the proposal will be less than minor.

#### Summary of Findings - Effects

9.27 Overall, we find that the adverse effects of the proposal will be minor or less than minor. We consider the applicant has gone some way to adequately mitigate the amenity effects of the new loading dock and that all other effects can be mitigated by way of conditions. We therefore find, that as a non-complying activity, the proposal meets the first part of the gateway test under s104D of the RMA.

9.26 We have also considered the positive effects arising from the proposal, which we consider to be better on-site traffic flows; increased road traffic safety; increased separation distance between the building and residential activity in respect of the Cuba Street frontage; increased amenity values of the surrounding area through the removal of a redundant building; and improved landscaping resulting in helping to break the perceived monotony of the street façade and helping to screen the working operation of Alsco and the carparking areas, from outside of the site. On balance, considering both the adverse and positive effects, we consider that the proposal will result in positive effects on the environment.

### 10. RELEVANT PLAN PROVISIONS

10.1 The reporting officer and applicant planner generally agreed with regards the relevant objectives and policies, with the applicant suggesting 4A 1.1.1 Residential Character and Amenity Values is also relevant. The reporting officer suggested the transport objective 14A(ii) 1.1.1 relating to the safe design and location of property access, and the objective and policy for safe and adequate provision for servicing (objective 14A(iv) 1.1.1) are relevant. We agree these three objectives and policies are relevant and assess the application against them also.

10.2 We heard from the reporting officer that there are various overarching objectives and policies within chapter 1 of the District Plan but the key objectives and policies of the General Residential Activity Area relate to non-residential activities and building height, scale, intensity and location.

10.3 Under 4A 1.1.1 Residential Character and Amenity Values, the relevant objective and policies are:

*Objective*

*To maintain and enhance amenity values and residential character of the General Residential Activity Area of the City.*

*Policies*

(b) *To restrict the range of non-residential and commercial activities to those which will not affect adversely the residential character or amenity values.*

(d) *That adverse effects arising from noise, dust, glare, light spill and odour be managed.*

(e) *That vegetation and trees which add to the particular amenity values of the area be retained where practicable."*

- 10.4 With regards to Policy (b) we find the activity has existing use rights and forms part of the established character of the immediate neighbourhood. We further find that the proposed construction works will not increase the scale or intensity of the use of the site, and that the altered vehicular flows on site will result in safer traffic flows.
- 10.5 We find there will be no permanent increase in noise, dust, glare, light spill or odour resulting from the proposed works. Any construction and demolition effects will be temporary in nature and can be controlled by conditions. Therefore the proposal is consistent with policy (d).
- 10.6 The proposal will retain all street trees and plant an additional street tree to enhance amenity values along the street. Internal landscaping along the Cuba Street frontage will assist in enhancing that elevation and landscaping beside the Tory Street frontage will assist in mitigating the length of the building. We find the proposal is consistent with policy (e).
- 10.7 Under 4A 1.1.4 Non-Residential Activities the relevant objective and policies are:  
*"Objective*  
*To ensure that any adverse effects of non-residential activities on the character and amenity values of surrounding residential areas are avoided, remedied or mitigated.*
- Policies*
- (a) *To ensure that any adverse effects caused by the size, scale and nature of non-residential activities, and any associated storage of hazardous substances, light spill, noise, glare, vehicle and pedestrian activity upon surrounding residential properties, are avoided, remedied or mitigated.*
- (c) *To recognise that Site Management Plans may be appropriate to manage matters beyond those addressed in the Plan. "*
- 10.8 We find that the character and amenity effects arising from the proposal will be no more than minor given the landscaping that will mitigate the building bulk of the dock and that the dock itself will match the existing warehouse building's façade, colour and materials.
- 10.9 When assessed against policy (a) above we note there is no storage of hazardous substances associated with this application. Light spill arising from vehicles (through headlights) will be reduced on the submitters, as vehicles will no longer reverse onto the Tory Street frontage. Noise effects are not expected to increase from this proposal. Vehicle and pedestrian activity is likely to remain similar to the existing environment.
- 10.10 Glare may be introduced if the material of the loading dock is not sufficiently matte. The reflectivity of the loading dock can be managed through a condition of consent and we have imposed a condition accordingly.

10.11 We heard no evidence as to the necessity for a Site Management Plan, and do not consider one is necessary.

10.12 Under 4A 1.2.1 for building height, scale, intensity and location the relevant objective and policies are:

*“Objective*

*To avoid, remedy or mitigate adverse effects caused by building height, intensity and location on the amenity values of adjacent residential sites and the residential character of the surrounding residential area.*

*Policies*

- (c) *To ensure all new development is of a height and scale, which is compatible with surrounding residential development.*
- (d) *To ensure a progressive reduction in height of buildings the closer they are located to a site boundary, to maintain adequate daylight and sunlight to adjoining properties.*
- (e) *To manage the siting of all buildings so as to minimise detraction from the character and visual attractiveness of the surrounding residential activity area.*
- (f) *To manage the siting of all buildings so as to minimise detraction from the amenities of adjoining properties.”*

10.13 We find the proposal is consistent with policy (c) above. Whilst we acknowledge the non-complying activity is within the residential area, we do not consider the loading dock necessarily needs to have the appearance of a residential building. We find its visual effects have been reduced and mitigated by the applicant through the amendments to height, external appearance and proposed landscaping.

10.14 The loading dock will be sited 1.5m from the Tory Street frontage of the site. This siting fails the daylight admission angle by a minor amount onto the footpath. This is across the road from the submitters’ properties. We find that the reduced height of the loading dock (being 5.0m whilst the height of the main building is 7.2m), the flat roof design (where the existing building has a pitched roof), it’s short length (being 4.4m), the location on site (being to the west, resulting in a minor shadowing effect in the mornings only and onto the footpath) and the introduction of raised landscaping beds all result in the proposal being consistent with policy (d).

10.15 In relation to (e) and (f) above, the siting of the loading dock will be 1.5m from the Tory Street frontage and will result in additional building length when viewed from the submitters’ properties. We consider that the proposed landscaping and appearance of the dock will minimise amenity detraction. The landscaping will, once established, add to the amenity and streetscape of Tory Street.

10.16 In the Transport chapter of the District Plan, objective 14A(ii) 1.1.1 relates to the safe design and location of property access. The relevant objective and policies are:

*“Objective*

*To maintain the safety and efficiency of the roading network.*

*Policies*

(a) *That the location and design of access to properties is managed to provide for safe entry and exit movements, particularly in relation to intersections.*

(b) *That adequate provision is made on site for turning movements associated with heavy commercial vehicles to ensure that access and exit movements are in a forward direction."*

10.17 Also relevant is the objective and policy for safe and adequate provision for servicing as per 14A(iv) 1.1.1:

*Objective*

*To maintain the safety and efficiency of the roading network and the amenity values of the area.*

*Policy*

(a) *That adequate on site loading and unloading provision be made in a safe and attractive manner."*

10.18 The proposal was reviewed by Council's consultant traffic engineer, Bill Barclay, at several stages of the consent. Mr Barclay is confident the largest vehicles visiting the site will be able to enter in a forward direction from Tory Street and exit towards Cuba Street. Mr Barclay supports the proposal. We concur with his assessment.

10.19 We consider the proposal will improve the current traffic situation and reduce the traffic effects on the affected persons and the neighbourhood as there will no longer be large vehicles undertaking reverse manoeuvring on Tory Street.

10.20 Loading and unloading will take place within the site in a safe manner. Landscaping will mitigate the appearance of the dock such that servicing can take place in an attractive situation and we have imposed conditions accordingly.

## Summary of Assessment Against Relevant Objectives and Policies of the District Plan

10.21 We find the proposal will be consistent with the relevant objectives and policies of the General Residential Activity Area and the Transport chapter. We find the proposal is not contrary to the above objectives and policies.

10.22 We therefore find the proposal meets the second gateway test of the Act as it will not be contrary to the objectives and policies of the District Plan.

## Other Plans

10.23 There was agreement amongst the planners that there were no other plans of relevance to this application. This included the relevant national environmental standards; other regulations; national policy statements; New Zealand Coastal Policy Statement 2010; regional policy statement/proposed regional policy statement; or plan/proposed plan. This was not disputed by the submitters and we accept there are no other plans of relevance to this application.

10.24 We therefore find pursuant to s104(1)(b) that the proposal is consistent with the relevant planning documents.

#### Other Matters

- 10.25 The site and circumstances included within this proposal are considered to be sufficiently unique such that to grant consent will not set a precedent.
- 10.26 Mr Thackery raised an issue concerning ownership of the company. We acknowledge the company has changed from being locally owned in the early 1900's to national and now international ownership. We heard from Mr Churchman in his right of reply for the applicant, that ownership of the site is completely irrelevant. Mr Churchman further clarified that the use of residential sections for a commercial activity (in the context of being an efficient use of resources or not) is also irrelevant due to the existing use rights afforded by the applicant. We concur with Mr Churchman's view, that ownership and use of residential zoned land are not relevant matters.
- 10.27 Mr Thackery raised in his original written submission that a precedent has been set in a nearby motel development, (Council reference RM100378) which didn't allow the movement of large vehicles. We concur with the reporting officer's advice that that activity was to establish a new visitor accommodation facility in a residential area, whereas this application is for an established commercial operation with existing use rights.
- 10.28 There were no other matters raised that we consider are relevant and reasonably necessary to determine the application.

#### 11. PART 2 OF THE ACT

- 11.1 Part 2 sets out the purpose and principles of the Act (section 5); matters of national importance the consent authority must recognise and provide for when determining a resource consent (section 6); other matters the consent authority must have particular regard to (section 7); and the principles of the Treaty of Waitangi that must be taken into account (section 8).
- 11.2 The purpose of the Act as set out in section 5 is to promote *"the sustainable management of natural and physical resources while managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while... avoiding, remedying, or mitigating any adverse effects of activities on the environment."*
- 11.3 Section 6 of the RMA sets out the matters of national importance. The scale and location of the proposal is such that there are no matters of national importance.
- 11.4 Section 7 of the Act lists a number of other matters that Council shall have particular regard to when considering such an application. Under section 7 the following matters are considered applicable:  
*"(b) The efficient use and development of natural and physical resources:*  
*(c) The maintenance and enhancement of amenity values:*  
*(f) Maintenance and enhancement of the quality of the environment:"*
- 11.5 We find the proposal is consistent with 7(b) as it makes better use of an existing developed site. This is an efficient use and development of existing resources and infrastructure. The principle of 7(c) is met as we have found amenity values of the surrounding area will be enhanced through the removal of a redundant

building and infrastructure and installation of new landscaping. 7(f) is met as changes to access, egress and on-site manoeuvring will improve traffic safety and therefore will enhance the quality of the environment.

- 11.6 Section 8 of the Act requires that the Council, in achieving the purpose of the Act, in managing the use, development and protection of the natural and physical environment, shall take into account the principles of the Treaty of Waitangi. We find the proposal is not contrary to section 8 of the Act. We were informed the subject site is not adjacent to any land subject to the Port Nicholson Block Settlement Act 2009 that would warrant notification of the application to the Port Nicholson Settlement Trust. The site is not identified in the District Plan as containing any wahi tapu or sites of significance to Maori.
- 11.7 In determining the proposal against section 5 of the Act, we have found the adverse character and amenity effects that are likely to occur as a result of the loading dock have been mitigated. The applicant has set the dock back from the Tory Street frontage to provide more meaningful landscaping. They will match the appearance of the dock to the warehouse building and will use a non-reflective paint finish. They have reduced the height of the loading dock and once the landscaping is established, this will provide ongoing mitigation of the building bulk effects. The applicant is increasing the separation of their building from residential activity in respect of the Cuba Street frontage of the site.
- 11.8 We further find the proposal will allow the applicant to continue their operations in a more efficient manner and provide for their economic wellbeing. It will allow for safer vehicle manoeuvres to and from the site thereby providing for the community's health and safety.
- 11.9 Given the above factors, the proposal is consistent with section 5 of the RMA.
- 11.10 Overall we find the application will be consistent with Part 2 of the RMA as it will promote the sustainable management of natural and physical resources.

## 12. CONCLUSION AND DECISION

- 12.1 That the Hearings Committee, acting under delegated authority from Council and pursuant to sections 10, 104B, 104D, and 108 of the Resource Management Act 1991, **GRANTS CONSENT subject to conditions**, to the non-complying resource consent application made by Barristerscomm.Com on behalf of AlSCO NZ Ltd, to establish a new loading dock and demolish part of an existing building at 14 Tory Street, Petone.
- 12.2 This decision is made for the reasons discussed throughout and, in summary, because:
- (a) The activity that is **granted** is consistent with the purpose and principles of the Resource Management Act 1991;
  - (b) Subject to the imposition of appropriate conditions, the activity that is **granted** is consistent with the provisions of the operative City of Lower Hutt District Plan.

- (c) The activity that is **granted** is unlikely to have any significant adverse effects on the environment provided the conditions imposed are fully implemented.

12.3 The consent conditions are imposed.

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Mrs Margaret Cousins (Chair)

Dated this 2nd day of April 2015

## SCHEDULE 1 - CONDITIONS

The Consent Holder (and all contracts workers) shall ensure that:

### Approved plans

1. That the proposal is carried out substantially in accordance with the information and approved plans below by Design Management Consultants titled 'AlSCO NZ, truck dock and boiler demolition, 12-20 Tory Street, Petone, Lower Hutt' and submitted with the application and held on file at the Council as follows:
  - Sheet RC01 revision 2;
  - Sheet RC02 revision 5;
  - Sheet RC03 revision 3; and
  - Sheet RC04 revision 5.

### Construction

2. That the consent holder matches the materials and colour of the loading dock to the warehouse building it will be attached to. The paint finish of the loading dock is to be non-reflective.
3. That the consent holder advises the Council (enforcement@huttcity.govt.nz or (04) 560 1044) at least two working days before any work starts on site; and that the consent holder also supplies the name, phone number and address of the main contractor.
4. That the consent holder keeps a copy of this decision on site when work starts and makes it available on request to Council staff.
5. That the consent holder ensures all development and construction work complies with the provisions of NZS 6803:1999 Acoustics - Construction noise.
6. That the consent holder ensures all development and construction works takes place between 7am and 6pm Mondays to Fridays with no work on weekends or public holidays.
7. That the consent holder carries out all demolition and construction work in a way that prevents dust blowing beyond site boundaries. Control measures may include use of a water cart, limiting the vehicle speed to 10 kilometres an hour or applying water to exposed or excessively dry surfaces.
8. That the consent holder deposits all unwanted spoil in a Council-approved landfill by the conclusion of site works.

### Operational matters

9. That the consent holder shall establish a site and complaints management strategy which shall be submitted to the Team Leader Resource Consents for approval prior to the operation of the loading dock. The strategy shall include a

complaints register and it must enable neighbours to lodge complaints to the consent holder regarding the operation of the site. Any complaint lodged by these parties is to be addressed by the consent holder as soon as practicably possible but no later than five working days (Monday to Friday) from the date of receiving the complaint. The complaints register shall record the steps taken to rectify the complaint. A copy of the complaints register is to be made available to Hutt City Council when requested.

#### Landscaping

10. That the consent holder submits a landscaping plan prepared by a suitably qualified and experienced expert to the Team Leader Resource Consents prior to the commencement of any works on the site for consideration. This landscaping plan shall be designed to provide maximum contribution to the amenity values of Tory Street and when viewed from the local environment. This plan shall contain the following information:
- a. The name of each species to be planted;
  - b. The number, size and spacing of each species to be planted;
  - c. The time and method of planting and of post-planting maintenance;
  - d. The management structure for the on-going maintenance of the landscaping (including weed control).

*Note the consent holder is advised to design the landscaping plan taking the below recommendations into account:*

- *The minimum depth needed is 0.4m for topsoil and 0.6m of decent soil that is free from road, building materials, etc;*
- *That the landscaping area should accommodate one tree species that would be 4-4.5m high at maturity to provide screening and visual mitigation;*
- *Tree species that may be appropriate include Pohutukawa hybrids, Rata and Ngaio;*
- *That low lying planting should be established below the trees and along the length of the landscaping area;*
- *That any landscaping needs to be clear of Council services to reduce the risk of root damage. It appears there a water connection near the location of the landscaping;*
- *That species need to be able to withstand local conditions, particularly southerlies.*

11. That the consent holder implements the plan referenced in condition 10 as soon as the seasons make practicable, but must be finished within four months of the completion of works.
12. That the landscaping approved in condition 10 shall be retained for the duration of the loading dock being located on the site, including replacement of any plants which die, are removed, become damaged or diseased with a plant of a similar size and the same species. The Team Leader, Resource Consents may approve, in writing, any variation to the approved landscaping plan, and the approved scheme shall thereafter be permanently retained.

Traffic management

13. The layout of all car parking spaces shall comply with the requirements of AS / NZS 2890.1-2004.
14. That the consent holder ensures all loading and unloading activities take place within the application site.
15. That the Council may, in accordance with section 128 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent to remedy adverse traffic effects not anticipated from the exercise of the consent. This notice may be served within 12 months of the consent holder starting work on the site. In the course of any review, the Council may modify or add conditions to deal with any additional traffic effects.

**Advice Notes**

- The applicant for resource consent, consent holder or any person who made a submission on the application may also appeal this decision to the Environment Court within 15 working days of notice of the decision being received.
- The consent holder is advised to seek approval from Council's Parks and Gardens Department before any tree in the Council reserve is shifted. The contact in this team is Colin Lunn, Green Assets Manager on 04 570 6849 or [colin.lunn@huttcity.govt.nz](mailto:colin.lunn@huttcity.govt.nz).
- This resource consent is subject to payment of a Development Contribution Fee under the Council's Development and Financial Contributions Policy.
- In accordance with section 125 of the Resource Management Act 1991, the consent lapses if not given effect to within five years from the date of the application being granted.
- This resource consent is specific to the application received by Council. Any changes to the proposal may require a new resource consent and additional application fee.
- Plans submitted with the application have only been checked for compliance with the City of Lower Hutt District Plan.
- Any building work associated with the proposed activity should not commence until a building consent has been obtained under the Building Act 2004.
- The consent holder is reminded that the hours of operation and frequency of vehicle movements associated with the site are limited to those contained within the Existing Use Rights certificate issued on 12 June 2013.
- The consent holder is reminded that this resource consent is not a licence to create adverse effects. You still have a duty under the Act to avoid, remedy or mitigate adverse effects. Notwithstanding any resource consents held, section 17 of the Act continues to apply and will take enforcement action where necessary.
- Council may issue an abatement notice if the conditions of this resource consent are not complied with. Contravention of an abatement notice may incur a fine up

to \$300,000 or two years imprisonment for a natural person and a fine of up to \$600,000 to a person other than a natural person.